



Reprinted  
April 9, 2005

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## ENGROSSED HOUSE BILL No. 1083

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DIGEST HB 1083 (Updated April 8, 2005 5:47 pm - DI 92)

**Citations Affected:** IC 6-3.1; IC 6-3.5; IC 6-9; noncode.

**Synopsis:** Taxation. Postpones the expiration of the earned income tax credit until December 31, 2011. Authorizes Marion County to increase its county option income tax rate by not more than 0.3%. Provides that county option income tax distributions for counties that increase the rate of the tax are adjusted in the immediately following calendar year. Legalizes and validates any ordinance or resolution adopted in Marion County to increase the county option income tax rate by not more than 0.3%.

**Effective:** Upon passage; May 15, 2005; July 1, 2005.

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**Murphy, Day, Noe, Klinker**  
(SENATE SPONSORS — ALTING, KENLEY, SIMPSON)

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January 4, 2005, read first time and referred to Committee on Ways and Means.  
January 6, 2005, reported — Do Pass.  
January 10, 2005, read second time, ordered engrossed. Engrossed.  
January 11, 2005, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 14, 2005, read first time and referred to Committee on Tax and Fiscal Policy.  
April 5, 2005, amended, reported favorably — Do Pass.  
April 8, 2005, read second time, amended, ordered engrossed.

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EH 1083—LS 7078/DI 51+



Reprinted  
April 9, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1083

A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.1-21-10 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. This chapter  
3 expires December 31, ~~2005~~ **2011**.
- 4 SECTION 2. IC 6-3.5-6-9 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If on January  
6 1 of a calendar year the county option income tax rate in effect for  
7 resident county taxpayers equals six tenths of one percent (0.6%), then  
8 the county income tax council of that county may after January 1 and  
9 before April 1 of that year pass an ordinance to increase its tax rate for  
10 resident county taxpayers. **Except as provided in section 9.6 of this**  
11 **chapter**, if a county income tax council passes an ordinance under this  
12 section, its county option income tax rate for resident county taxpayers  
13 increases by one tenth of one percent (0.1%) each succeeding July 1  
14 until its rate reaches a maximum of one percent (1%).
- 15 (b) The auditor of the county shall record any vote taken on an  
16 ordinance proposed under the authority of this section and immediately  
17 send a certified copy of the results to the department by certified mail.

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SECTION 3. IC 6-3.5-6-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. Notwithstanding any other provision of this chapter, the county income tax council for a county containing a consolidated city may pass an ordinance to increase the county option income tax rate for resident county taxpayers by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%).**

SECTION 4. IC 6-3.5-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The county income tax council of any county may adopt an ordinance to permanently freeze the county option income tax rates at the rate in effect for its county on January 1 of a year.

(b) To freeze the county option income tax rates a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council permanently freezes the county option income tax rates at the rate in effect on January 1 of the current year."

(c) An ordinance adopted under the authority of this section remains in effect until rescinded. The county income tax council may rescind such an ordinance after January 1 but before April 1 of any calendar year. Such an ordinance shall take effect July 1 of that same calendar year.

(d) **Except as provided in section 9.6 of this chapter**, if a county income tax council rescinds an ordinance as adopted under this section the county option income tax rate shall automatically increase by one-tenth of one percent (0.01%) until:

(1) the tax rate is again frozen under another ordinance adopted under this section; or

(2) the tax rate equals six tenths of one percent (0.6%) (if the frozen tax rate equaled an amount less than six tenths of one percent (0.6%)) or one percent (1%) (if the frozen tax rate equaled an amount in excess of six tenths of one percent (0.6%)).

(e) The county auditor shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 5. IC 6-3.5-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an

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ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), and (e). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed a **county option income** tax; or

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**(2) increases the county option income tax rate;**

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(g) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(h) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

**SECTION 6. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-6, if the county income tax council for a county containing a consolidated city passes an ordinance described in IC 6-3.5-6-9.6, as added by this act, before June 1, 2005, the increased rate takes effect July 1, 2005.**

**(b) An ordinance or a resolution adopted to increase the rate of the county option income tax for resident county taxpayers under IC 6-3.5-6-9.6, as added by this act, by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%), is valid and effective, regardless of whether the ordinance or resolution is passed before, on, or after the effective date of this act.**

**SECTION 7. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1083, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ESPICH, Chair

Committee Vote: yeas 21, nays 0.

## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1083, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1083 as printed January 7, 2005.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

## SENATE MOTION

Madam President: I move that Engrossed House Bill 1083 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 17.

Page 18, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 1. IC 6-3.1-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. This chapter expires December 31, ~~2005~~ 2011.

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SECTION 2. IC 6-3.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If on January 1 of a calendar year the county option income tax rate in effect for resident county taxpayers equals six tenths of one percent (0.6%), then the county income tax council of that county may after January 1 and before April 1 of that year pass an ordinance to increase its tax rate for resident county taxpayers. **Except as provided in section 9.6 of this chapter**, if a county income tax council passes an ordinance under this section, its county option income tax rate for resident county taxpayers increases by one tenth of one percent (0.1%) each succeeding July 1 until its rate reaches a maximum of one percent (1%).

(b) The auditor of the county shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 3. IC 6-3.5-6-9.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. Notwithstanding any other provision of this chapter, the county income tax council for a county containing a consolidated city may pass an ordinance to increase the county option income tax rate for resident county taxpayers by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%).**

SECTION 4. IC 6-3.5-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The county income tax council of any county may adopt an ordinance to permanently freeze the county option income tax rates at the rate in effect for its county on January 1 of a year.

(b) To freeze the county option income tax rates a county income tax council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Income Tax Council permanently freezes the county option income tax rates at the rate in effect on January 1 of the current year."

(c) An ordinance adopted under the authority of this section remains in effect until rescinded. The county income tax council may rescind such an ordinance after January 1 but before April 1 of any calendar year. Such an ordinance shall take effect July 1 of that same calendar year.

(d) **Except as provided in section 9.6 of this chapter**, if a county income tax council rescinds an ordinance as adopted under this section the county option income tax rate shall automatically increase by one-tenth of one percent (0.01%) until:

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(1) the tax rate is again frozen under another ordinance adopted under this section; or

(2) the tax rate equals six tenths of one percent (0.6%) (if the frozen tax rate equaled an amount less than six tenths of one percent (0.6%)) or one percent (1%) (if the frozen tax rate equaled an amount in excess of six tenths of one percent (0.6%)).

(e) The county auditor shall record any vote taken on an ordinance proposed under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 5. IC 6-3.5-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), and (e). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after

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reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

**(1) initially imposed a county option income tax; or**

**(2) increases the county option income tax rate;**

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(g) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(h) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments."

Page 18, delete lines 26 through 42.

Delete pages 19 through 36.

Pag 37, delete lines 1 through 13, begin a new paragraph and insert:

**"SECTION 6. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-6, if the county income tax council for a county containing a consolidated city passes an ordinance described in IC 6-3.5-6-9.6, as added by this act, before June 1, 2005, the increased rate takes effect July 1, 2005.**

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**(b) An ordinance or a resolution adopted to increase the rate of the county option income tax for resident county taxpayers under IC 6-3.5-6-9.6, as added by this act, by not more than three-tenths of one percent (0.3%) on the succeeding July 1, up to a maximum rate of one percent (1%), is valid and effective, regardless of whether the ordinance or resolution is passed before, on, or after the effective date of this act."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1083 as printed April 6, 2005.)

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